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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

GARY DEWILLIAMS.

Case No. 17-00356-GW (PLA)

**Plaintiff,**

v.

ROBERT GROVES, ET AL.,

~~PROPOSED~~ STIPULATION AND  
PROTECTIVE ORDER FOR  
DISCLOSURE PURSUANT TO  
PRIVACY ACT 5 USC 552a

## Defendants.

Honorable George H. Wu  
Courtroom 9D, 9<sup>th</sup> Floor  
350 West 1st Street  
Los Angeles, CA 90012

Magistrate Judge Paul L. Abrams  
Roybal Federal Building  
255 E. Temple Street  
Los Angeles, CA. 90012

IT IS HEREBY STIPULATED AND AGREED, by and between Defendant Robert Groves and the Federal Bureau of Prisons that:

WHEREAS, this action arises under Title 42 U.S.C §1983 and Bivens vs Six Unknown Agents 403 U.S. 388 (1971); and

WHEREAS, an order from this Court is required for the production of confidential medical information that is protected from disclosure by the Privacy Act of 1974, 5 U.S.C. §552a, and confidential, law enforcement sensitive information for which special protection from public disclosure is warranted; and

WHEREAS, defendant herein, Robert Groves seeks the production of such confidential information from the Federal Bureau of Prisons; and

WHEREAS, in order to permit defendant to access such information relevant to the subject matter of this case, and to balance the needs of the defendant for this information with the need of the Non-Party Federal Bureau of Prisons to protect law enforcement sensitive information and the privacy interests of the plaintiff, defendant Robert Groves and the Federal Bureau of Prisons hereby stipulate to and petition the Court to enter the following Protective Order pursuant to 5 U.S.C. 5 U.S.C §552a(b)(11), ordering production of certain information in a manner that assures its protection.

Such information consists of, among other things, (A) inmate central file and medical records of pertaining to Plaintiff Gary deWilliams, Federal Register No. 20666-013, (B) records of administrative grievances filed by Plaintiff Gary deWilliams against defendant Robert Groves which may touch upon medical issues and / or sensitive subjects, (C) law enforcement investigative records which may include descriptions, photographs and / or video of the inside of a Federal correctional facility and which may reveal internal prison security measures, otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law.

The undersigned acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The undersigned further acknowledge, as set forth in Section 11.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

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1 It is the intent of the undersigned that information will not be designated as  
2 confidential for tactical reasons and that nothing be so designated without a good faith  
3 belief that it has been maintained in a confidential, non-public manner, and there is good  
4 cause why it should not be part of the public record of this case.

Accordingly, in order to adequately protect certain information that the undersigned  
are entitled to keep confidential, to ensure that the undersigned are permitted reasonable,  
necessary uses of such material in preparation for and in the conduct of trial, to address  
their handling at the end of the litigation, and serve the ends of justice, a protective order  
for such information is justified in this matter.

10 | 1. DEFINITIONS

13        1.2 Challenging Party: a Party or Non-Party that challenges the designation of  
14 information or items under this Order.

15        1.3    "CONFIDENTIAL" Information or Items: information (regardless of how it  
16 is generated, stored or maintained) or tangible things that qualify for protection under  
17 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause  
18 Statement.

19 ||| 1.4 Counsel: Counsel of Record and their support staff.

20        1.5 Designating Party: a Party or Non-Party that designates information or items  
21 that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

22        1.6 Disclosure or Discovery Material: all items or information, regardless of the  
23 medium or manner in which it is generated, stored, or maintained (including, among other  
24 things, testimony, transcripts, and tangible things), that are produced or generated in  
25 disclosures or responses to discovery in this matter.

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1       1.7 Expert: a person with specialized knowledge or experience in a matter  
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
3 expert witness or as a consultant in this Action.

4       1.8 Non-Party: For purposes of this order, the Non-Party is the Federal Bureau  
5 of Prisons.

6       1.9 Counsel of Record: attorneys who are not employees of a party to this Action  
7 but are retained to represent or advise a party to this Action and have appeared in this  
8 Action on behalf of that party or are affiliated with a law firm which has appeared on  
9 behalf of that party and includes support staff.

10      1.10 Party: For the purposes of this order, the Party is Defendant Robert Groves,  
11 including all of his consultants, retained experts, and Counsel of Record (and their support  
12 staffs).

13      1.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
14 Material in this Action.

15      1.12 Professional Vendors: persons or entities that provide litigation support  
16 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
17 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
18 their employees and subcontractors.

19      1.13 Protected Material: any Disclosure or Discovery Material that is designated  
20 as "CONFIDENTIAL."

21      1.14 Receiving Party: a Party that receives Disclosure or Discovery Material from  
22 a Producing Party.

23      2. SCOPE

24      The protections conferred by this Stipulation and Order cover not only Protected  
25 Material (as defined above), but also (1) any information copied or extracted from  
26 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected  
27 Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel

1 that might reveal Protected Material. Any use of Protected Material at trial shall be  
2 governed by the orders of the trial judge. This Order does not govern the use of Protected  
3 Material at trial.

4 **3. DURATION**

5 Even after final disposition of this litigation, the confidentiality obligations imposed  
6 by this Order shall remain in effect until a Designating Party agrees otherwise in writing  
7 or a court order otherwise directs. Final disposition shall be deemed to be the later of  
8 (1) dismissal of all claims and defenses in this Action, with or without prejudice; and  
9 (2) final judgment hereinafter the completion and exhaustion of all appeals, rehearing's,  
10 remands, trials, or reviews of this Action, including the time limits for filing any motions  
11 or applications for extension of time pursuant to applicable law.

12 **4. DESIGNATING PROTECTED MATERIAL**

13 **4.1 Exercise of Restraint and Care in Designating Material for Protection.** Each  
14 Party or Non-Party that designates information or items for protection under this Order  
15 must take care to limit any such designation to specific material that qualifies under the  
16 appropriate standards. The Designating Party must designate for protection only those  
17 parts of material, documents, items, or oral or written communications that qualify so that  
18 other portions of the material, documents, items, or communications for which protection  
19 is not warranted are not swept unjustifiably within the ambit of this Order.

20 Mass, indiscriminate, or routinized designations are prohibited. Designations that  
21 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,  
22 to unnecessarily encumber the case development process or to impose unnecessary  
23 expenses and burdens on other parties) may expose the Designating Party to sanctions.

24 If it comes to a Designating Party's attention that information or items that it  
25 designated for protection do not qualify for protection, that Designating Party must  
26 promptly notify all other Parties that it is withdrawing the inapplicable designation.

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**4.2 Manner and Timing of Designations.** Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the "CONFIDENTIAL legend" to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identify the Disclosure or Discovery Material on the record, before the close of the deposition all protected testimony.

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(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend "CONFIDENTIAL." If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

6        4.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure  
7 to designate qualified information or items does not, standing alone, waive the Designating  
8 Party's right to secure protection under this Order for such material. Upon timely  
9 correction of a designation, the Receiving Party must make reasonable efforts to assure  
10 that the material is treated in accordance with the provisions of this Order.

## 5. CHALLENGING CONFIDENTIALITY DESIGNATIONS

12        5.1    Timing of Challenges. The Party or Non-Party may challenge a designation  
13 of confidentiality at any time that is consistent with the Court's Scheduling Order.

14        5.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution  
15 process under Local Rule 37.1 et seq.

16        5.3 The burden of persuasion in any such challenge proceeding shall be on the  
17 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to  
18 harass or impose unnecessary expenses and burdens on other parties) may expose the  
19 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the  
20 confidentiality designation, all parties shall continue to afford the material in question the  
21 level of protection to which it is entitled under the Producing Party's designation until the  
22 Court rules on the challenge.

## 6. ACCESS TO AND USE OF PROTECTED MATERIAL

24        6.1 Basic Principles. A Receiving Party may use Protected Material that is  
25 disclosed or produced by another Party or by a Non-Party in connection with this Action  
26 only for prosecuting, defending, or attempting to settle this Action. Such Protected  
27 Material may be disclosed only to the categories of persons and under the conditions

1 described in this Order. When the Action has been terminated, a Receiving Party must  
2 comply with the provisions of section 13 below (FINAL DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a location  
4 and in a secure manner that ensures that access is limited to the persons authorized under  
5 this Order.

6       6.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
7 ordered by the court or permitted in writing by the Designating Party, a Receiving Party  
8 may disclose any information or item designated “CONFIDENTIAL” only to:

9             (a) the Receiving Party’s Outside Counsel of Record in this Action, as  
10 well as employees of said Outside Counsel of Record to whom it is reasonably necessary  
11 to disclose the information for this Action;

12             (b) Experts (as defined in this Order) of the Receiving Party to whom  
13 disclosure is reasonably necessary for this Action and who have signed the  
14 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

15             (c) the court and its personnel;

16             (d) court reporters and their staff;

17             (e) professional jury or trial consultants, mock jurors, and Professional  
18 Vendors to whom disclosure is reasonably necessary for this Action and who have signed  
19 the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

20             (f) the author or recipient of a document containing the information or a  
21 custodian or other person who otherwise possessed or knew the information;

22             (g) during their depositions, witnesses, and attorneys for witnesses, in the  
23 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
24 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not  
25 be permitted to keep any confidential information unless they sign the “Acknowledgment  
26 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating  
27 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to

1 depositions that reveal Protected Material may be separately bound by the court reporter  
2 and may not be disclosed to anyone except as permitted under this Stipulated Protective  
3 Order; and

4 (h) any mediator or settlement officer, and their supporting personnel,  
5 mutually agreed upon by any of the parties engaged in settlement discussions.

6 7. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**  
**OTHER LITIGATION**

8 If a Party is served with a subpoena or a court order issued in other litigation that  
9 compels disclosure of any information or items designated in this Action as  
10 "CONFIDENTIAL," that Party must:

11 (a) promptly notify in writing the Designating Party. Such notification  
12 shall include a copy of the subpoena or court order;

13 (b) promptly notify in writing the party who caused the subpoena or order  
14 to issue in the other litigation that some or all of the material covered by the subpoena or  
15 order is subject to this Protective Order. Such notification shall include a copy of this  
16 Stipulated Protective Order; and

17 (c) cooperate with respect to all reasonable procedures sought to be  
18 pursued by the Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with the  
20 subpoena or court order shall not produce any information designated in this action as  
21 "CONFIDENTIAL" before a determination by the court from which the subpoena or order  
22 issued, unless the Party has obtained the Designating Party's permission. The Designating  
23 Party shall bear the burden and expense of seeking protection in that court of its  
24 confidential material and nothing in these provisions should be construed as authorizing  
25 or encouraging a Receiving Party in this Action to disobey a lawful directive from another  
26 court.

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8. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED  
IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by the Non-Party in this Action and designated as "CONFIDENTIAL." Such information produced by the Non-Party in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting the Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

**9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

## 11. MISCELLANEOUS

11.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

**11.2 Right to Assert Other Objections.** By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in

evidence of any of the material covered by this Protective Order.

**11.3 Filing Protected Material.** A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

**12. FINAL DISPOSITION**

After the final disposition of this Action, as defined in Section 1.1, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 3 (DURATION).

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1       13. VIOLATION OF THIS ORDER

2                  Any violation of this Order may be punished by any and all appropriate measures  
3 including, without limitation, contempt proceedings and/or monetary sanctions.

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5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

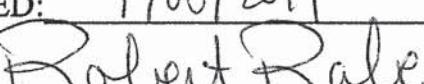
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7 DATED 1/8/2019

8

9   
Michael A. Mehl  
10 Attorney for Non-Party Bureau of Prisons

11 DATED: 1/08/2019

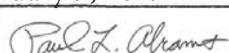
12   
Robert Rabe  
13 ROBERT RABE  
14 Attorney for Defendant Robert Groves

15 DATED: \_\_\_\_\_  
16

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18 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.  
19

20 DATED: January 9, 2019

21   
Paul L. Abrams

22

23 Paul L. Abrams  
UNITED STATES MAGISTRATE JUDGE  
24

EXHIBIT A

## ACKNOWLEDGMENT OF PROTECTIVE ORDER

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulation and Protective Order that was issued by the United States District Court for the Central District of California on \_\_\_\_\_ (date issued) in the case of *Gary deWilliams v. Robert Groves, et al.*, ED CV 17-00356-GW (PLA). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulation and Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ [print or type full name] of \_\_\_\_\_ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed:

Printed name:

Signature: